

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 09/295,935 Confirmation No.: 7765
Applicant : Polly Stecyk, Edwin Jou, and Shawn Graham
Filing Date : 04/21/1999
Title : V-CHIP HOURS
Group Art Unit : 2623
Examiner : Annan Q. Shang
Docket No. : 705397.15
Customer No. : 34313

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF UNDER 37 C.F.R. § 41.41

Sir:

This Reply Brief is submitted in support of Applicants' pending appeal to the Board of Patent Appeals and Interferences from a Final Office Action dated February 7, 2008.

Appellants submit this Reply Brief, in compliance with 37 C.F.R. § 41.41.

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STATUS OF CLAIMS

At the time of the Notice of Appeal, Claims 1-46 were pending in the application and were finally rejected.

Applicants appeal the final rejection of Claims 1-46.

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GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1-46 are unpatentable under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 5,969,748 to Casement, *et al.* ("Casement").

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ARGUMENT UNDER 37 C.F.R. § 41.41

Upon reviewing Examiner's Answer, it is ever clearer that the fundamental disagreement over the applicability of Casement lies primarily on the Examiner's excessively expansive view of what the reference teaches. Such view has no intrinsic support in Casement. In short, the Examiner asserts that Appellants' traversal of the pending rejection stems from Appellants' mischaracterization of Casement but, unfortunately, it is the Examiner's strained portrayal of Casement that needs correction. No new arguments are set forth herein; nonetheless, Appellants wish to briefly clarify the salient points below in light of the Examiner's Answer.

I. Casement Fails to Anticipate the Express Limitations of Independent Claims 1, 13, 19, and 25 Directed to the Simultaneous Use of Time Blocks in Combination with Content-Rating Blocks

Casement clearly fails to anticipate Appellants' claims, which focus on the simultaneous use of time blocks in conjunction with content-rating blocks to impair viewing of user discernible information, i.e., viewing is impaired if the current viewing time falls within a user defined time period and the content-based indicator of the program exceeds a user defined content-based specification corresponding to the user defined time period. According to the Examiner, "Casement teaches that ' . . . [a] user may lock TV programs by channel, by rating and/or content or by time' (col. 4, lines 2-3)." Answer, p. 7. This singular sentence in Casement is the sole basis for the

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Examiner's strained portrayal of Casement as anticipating Appellants' claims. In Casement, the use of time locks and content/rating locks are clearly mutually exclusive. The Examiner's strained interpretation of Casement to the contrary is wholly inconsistent with the teachings of the rest of Casement's specification, especially in light of Fig. 4 of Casement and the portions of the specification that elaborate thereon. *See* Casement, Col. 6-7; Appellants' Brief, pp. 24-27 (Fig. 4 is reproduced below for the Board's convenience). Specifically, the Examiner asserts that:

. . . [T]he [Casement] system inherently selects numerous finite time ranges to access and view desirable programs within a 24 hours . . . and compares the reference time with one of the finite time ranges and when the reference time falls outside one of the finite time range [sic], the user is allow [sic] to view the TV program without user input and further compares the selected content based specification (user defining rating) with the received content-based indicator (Rating of the EPG or Program schedule) to impaired [sic] the program signal if the rating exceeds the content specification when [the] reference time falls within the first finite time range specification. Answer, p. 8 (emphasis added).

Yet, the Examiner cites nothing within Casement to support that conclusory assertion. Notably, the very language set forth in the Examiner's Answer belies the

Examiner's broad interpretation of Casement set forth above. The Examiner specifically states that, "If a BOX lock has not been set, [then and only then] the system check for channel locks. . . . If no time lock has been set [then and only then] . . . checks for rating/MPAA lock" Clearly, Casement teaches mutual exclusivity between a BOX lock, time lock, and content/rating lock.

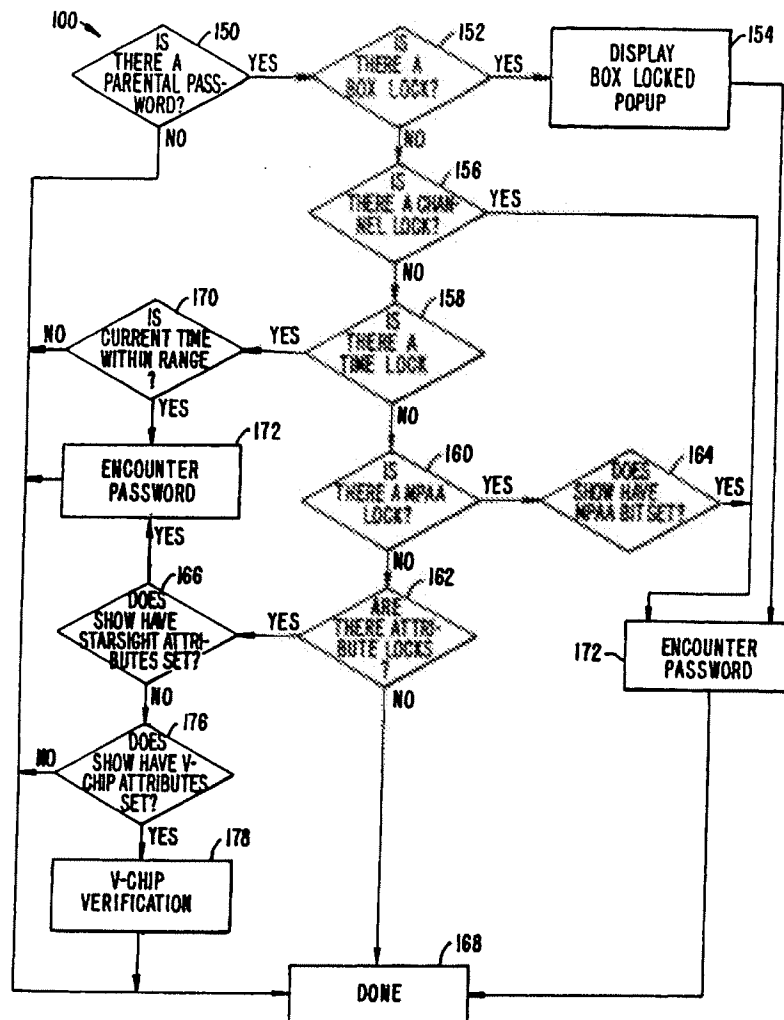


FIG. 4.

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In stark contrast to the teachings of Casement, Appellants claim methods and devices capable of impairing viewing functionality by the *simultaneous* use of time-based locks *in combination with* content-based locks. Independent method claim 1, which is reproduced below for the Board's convenience as representative of the claim limitations not taught by Casement, explicitly sets forth the various qualities of the claimed invention as follows:

receiving a program signal suitable for conversion by the consumer electronics device into user discernible information;

receiving a content-based indicator indicative of the content of the user discernible information and timing information indicative of a reference time;

selecting a first content-based specification and a first finite time range specification associated with the first content-based specification, wherein the first finite time range specification is less than twenty-four hours in duration;

selecting a second content-based specification different from the first content-based specification and a second finite time range specification associated with the second content-based specification, wherein the second finite time range specification is less than twenty-four hours in duration and encompassing a different time range than first finite time range specification;

comparing the reference time with the first and second finite time range

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specifications;

allowing user review of user discernible information *without user input and without comparison of the received content-based indicator with a content-based specification if the reference time is outside the first and second finite time range specifications;*

comparing the received content-based indicator with the first content-based specification when the reference time falls within the first finite time range specification and with the second content-based specification when the reference time falls within the second finite time range specification; and

impairing the program signal *if the received content-based indicator exceeds the first content-based specification associated with the first finite time range specification when the reference time falls within the first finite time range specification or exceeds the second content-based specification associated with the second finite time range specification when the reference time falls within the second finite time range specification.*

(emphasis added to indicate the simultaneous use of time blocks in combination with content-rating blocks).

Clearly, the claimed invention is directed to the simultaneous use of time blocks in combination with content-rating blocks to impair viewing—a concept wholly

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dissimilar to that taught by Casement, i.e., one which uses a BOX lock, time locks, or content/rating locks mutual exclusive of each other to impair viewing.

Accordingly, and as fully set forth in Appellants' opening brief, Casement fails to describe, teach, or suggest the simultaneous use of time-based blocks in combination with content-based blocks to impair the viewing of user discernible information and allow program viewing in distinct time periods without user participation. As such, Appellants request that the Board reverse the Examiner's rejection of all pending claims based on Casement under § 102(e).

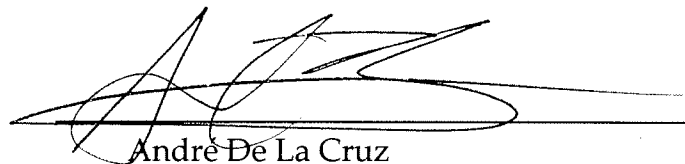
II. Conclusion

Appellants request that the Final Office Action of February 7, 2008 be reversed and the present application be allowed.

Respectfully submitted,
ORRICK, HERRINGTON & SUTCLIFFE LLP

Dated: June 10, 2009

By:

A handwritten signature in black ink, appearing to read 'André De La Cruz', is written over a horizontal line.

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